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CITY OF SAN JOSE
DEVELOPMENT SERVICES
jsl@svlg.com

Jeffrey S. Lawson

July 24, 2007

U.S. Mail

Darryl Boyd
Principal Planner
Dept. of Planning, Building Code Enforcement
City of San Jose, City Hall
2000 East Santa Clara Street
San Jose, CA 95113-1905

Re: ***Great Oaks Water Company comments on Draft Environmental Impact Report
for Coyote Valley Specific Plan***

Dear Mr. Boyd:

This firm represents Great Oaks Water Company ("GOWC") in regard to California Environmental Quality Act matters. In checking your web site the other day my client noted that GOWC's comments to the Coyote Valley Specific Plan Draft Environmental Impact Report (DEIR) had not been posted. GOWC also learned from your office that the comments that GOWC believed to be timely filed may have missed the email cut-off time by less than an hour.

Attached please find Great Oaks Water Company comments on the DEIR as well as Great Oaks' previous comments in response to the City's request for scoping issues. As you undoubtedly know, GOWC operates in south Santa Clara County and has expertise in the water issues related to the south county. GOWC is a stakeholder with a very strong interest in the appropriate evaluation of water issues in the south county; including the Coyote Valley. For these reasons GOWC's comments are necessary for a complete and adequate DEIR.

Agencies may choose to respond and accept late comments. Pub. Res. Code §21091(d)(2)(A). In this case, since the public hearing is not scheduled until November 28, 2007, and that is a tentative date, it would not place any undue burden on the city to respond to GOWC's comments. On the other hand, it would greatly prejudice GOWC and diminish the analysis of the DEIR if the DEIR does not address the concerns of a significant stakeholder in the water issues that the DEIR is supposed to disclose and evaluate.

Darryl Boyd
July 24, 2007
Page 2

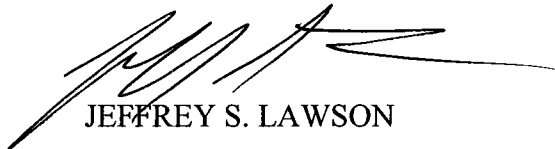
I must also note that pursuant to Pub. Res. Code §21177(b), if necessary, Great Oaks is entitled to initiate legal action based on objections presented either orally or in writing during the public comment period; "or prior to the close of the public hearing on the project before the issuance of the notice of determination." Accordingly, if the comments are not accepted now GOWC will present them at the public hearing. GOWC would prefer not to submit its comments at the certification hearing because it will be difficult for staff to respond appropriately at that time.

GOWC's comments are designed to improve the DEIR by presenting to the drafters significant water supply and distribution issues within the Coyote Valley. It is GOWC's sincere desire that its comments be dealt with administratively in the DEIR, rather than being ignored and forcing Great Oaks to raise the issues at the certification hearing and, if necessary, in legal proceedings later.

For the foregoing reasons, we respectfully request that GOWC's comments be accepted by the city and responded to. This process will result in a better and more complete final EIR, and significantly reduce the chance of GOWC initiating litigation just so its comments can be heard.

Your professional courtesy in this matter is greatly appreciated.

Very truly yours,
Silicon Valley Law Group



JEFFREY S. LAWSON

JSL:edn

Enclosures: June 22, 2007 letter to Darryl Boyd
June 30, 2007 letter to Director Haase

cc: Joseph Horwedel
John Roeder
Tim Guster

Lawson, Jeff

From: John Roeder [jroeder@greatoakswater.com]
Sent: Friday, June 29, 2007 5:59 PM
To: darryl.boyd@sanjoseca.gov
Cc: John Roeder; Lawson, Jeff; Guster, Tim; jared.hart@sanjoseca.gov
Subject: CVSP EIR comments

Attachments: 6-23-07 CVSP EIR.doc



6-23-07 CVSP
EIR.doc (35 KB)

Darryl,

Please see the attached comments on the CVSP EIR.

Thank you,

John Roeder

June 22, 2007

Mr. Darryl Boyd
Principal Planner
Department of Planning, Building, and Code Enforcement
City of San Jose
200 East Santa Clara Street
San Jose, CA 95113-1905

Subject: Draft Environmental Impact Report for Coyote Valley Specific Plan

Dear Mr. Boyd,

Great Oaks Water Company has the following comments on the Draft Environmental Impact Report for Coyote Valley Specific Plan:

On June 30, 2005, in response to a Notice of Preparation of the CVSR EIR, Great Oaks presented comments and recommendations relating to the scope of the EIR. A copy of that letter is attached. It appears that most of the issues raised by Great Oaks have not been addressed. Those issues include:

1. Study the impacts and costs of public and private utility relocations caused by locating the proposed pond at Bailey and Santa Teresa.
2. Consider and study the impacts and possible mitigation of moving the pond near the Metcalf Energy Center or some other location.
3. Study the proposed uses of recycled water in the Valley. Examine what quality of recycled water will be recommended for each use. Examine how and where the recycled water will be treated above Title 22 recycled water. Examine how the water will be transported and the potential impacts within the Valley. Examine and determine the potential impacts of recycled water on Fisher Creek and Coyote Creek. Include a full assessment of the use of natural resources consumed in the building of the infrastructure for recycled water distribution and operation of the pumps and pipes.
4. Perform a complete and comprehensive study of ground water hydrology in Coyote Valley to determine potential impacts of recycled water on critical drinking water aquifers. As part of the study, collate the ground water records for the Valley, demonstrating the depth of the ground water from the time records were kept to date from the north end of the

Valley down through the Greenbelt. Show the depth at various times during the year. As part of the study, determine the variation in permeability of the ground throughout the proposed development area and how quickly will something placed on the ground, be it recycled water, motor oil, gasoline, construction waste, lawn and garden fertilizer and poisons, etc. get into the ground water and be drawn down into the wells used to provide drinking water, or enter the ground water flow to Coyote Creek and the Santa Clara sub-basin. As part of the study determine the demand for water for the Coyote Valley using realistic comparisons with similar water systems. Determine the sustainable extraction and recharge rates for ground water, including all ground water recharge methods. As part of that study examine the extent of potential damage that may be caused by recycled water to this critical ground water resource. Testing should be done to determine and benchmark existing background levels of contamination as part of the study.

5. Given the high ground water from the mid to north end of the Valley, study the impacts on construction, including underground parking and high rise building footings and below ground building levels. Conversely, study the potential impacts on the ground water from construction materials and the near term construction and long term existence of these structures in this critical ground water basin. Consider as part of the analysis the no project option.

6. The EIR should examine the advantages and impacts of developing the poor farm land in the south Valley, rather than the excellent farmland in the mid and north Valley.

7. Examine alternative sites for the drainage retention pond that would not have the adverse impacts of the proposed site.

8. Study and explain the alternate methods of lining the lake or pond. Include, for example, analysis of the amount of recycled water to be held, whether the type of containment proposed has been used on a project of this size before, whether the type of containment proposed has been used on a project of this size where surrounding ground water is potable, a critical drinking water resource, and near or at the surface for large parts of the year, whether the containment ever leaked into the adjacent ground and the impact on the surrounding potable water; whether it has been used in an earthquake zone *and survived a major quake* and if not the impacts on ground water and surrounding drainage and the impact on fish and wildlife.

9. The EIR should include an analysis of resource waste by the City and the cost impact, by having the City operate a potable water system in an area where a private water company has existing facilities and will continue to serve within and outside of the City's limits. The analysis should include the impact of additional costs to the City or SCVWD of damage awards for inverse condemnation for any interference with private water company operations. The analysis should include a comparison of the additional costs to property owners and developers of the City system, since private companies self fund or repay land owners or developers for construction fees advanced.

All of the above issues need to be fully addressed, as well as the following:

Section 4.8.2.3 explains Flooding Conditions. The example of the 1997 flood of Coyote Valley highlights the dangers of Anderson Reservoir overflowing. With the low lying areas of Coyote

Valley (ie. North of Bailey) developed, the Water District will need to operate Anderson Reservoir at a lower level to protect lives and property by making a greater allowance for rain events. The reduction in water levels will create a reduction in total annual water storage capacity available for most of Santa Clara County. The effect of this reduction in annual water supply should be recognized, studied and analyzed.

Section 4.8.2.5, Section 4.16.2.1, Section 4.16.2.4 and Figure 4.11-1 states that approximately 8,000 acre-feet per year of water is the current withdrawal rate within Coyote Valley. This is incorrect. Great Oaks, alone, pumped 4,600 acre-feet of water within Coyote Valley in 2006. This pumping rate should be updated and corrected. The total water production is probably in excess of 12,000 acre-feet per year.

Section 4.11.1.2 states that Great Oaks Water has recently completed construction of 12,000 feet of 16 inch main in Santa Teresa Boulevard. This is incorrect. The pipeline is far more than 12,000 feet and is not 16 inch. Great Oaks has about 5 miles of mains, 2 wells and many customers in Coyote Valley. Great Oaks delivers water from supplies in the north to customers in Coyote Valley as well as pumping water in Coyote Valley that is delivered to customers outside the valley to the north and west.

Section 4.16.2.4 states that pumps and pipelines would need to be installed to withdraw 1,200 afy from the Santa Clara Valley Basin for use in Coyote Valley. Great Oaks already has all wells, pumps and mains in place to deliver far more than 1,200 afy if needed.

Section 6.3.11.3 states that "[t]he water service provider for Coyote Valley has not yet been determined." This statement is incorrect, as the California Public Utilities Commission has already made this determination. The CVSP EIR should indicate and acknowledge the service area of Great Oaks Water Company as certified by the California Public Utilities Commission, and the natural extensions thereto, encompass all of the land included in the CVSP. Therefore, the entire CVSP EIR, as it relates to water supply, fails to properly consider the existing Great Oaks water system, future extensions thereto and legal ramifications of any intrusion into Great Oaks' certified service territory by any other water system.

Please call me, John Roeder, at 408 227-9540 if you have any questions.

Sincerely,

John Roeder, CEO
Great Oaks Water Co.

Cc: Jared Hart
Jeff Lawson

June 30, 2005

Served by email, fax and regular mail

City of San Jose
Department of Planning
Attention: Stephen Haase, Director
stephen.haase@sanjoseca.gov
801 North First Street, Room 400
San Jose, CA 95110

Re: City's Request for Scoping Issues for EIR concerning Coyote Valley CEQA

Dear Director Haase:

Great Oaks Water Company has service territory, current customers and production wells in the Coyote Valley. The Company has public safety and reliability concerns from some of the potential development ideas that have been expressed for Coyote Valley. The Company believes that an adequate CEQA review MUST include solid reliable NON-SPECULATIVE answers to the following concerns. Please note that from our review over the last year of the prior CEQA records that the City has compiled for all prior projects of any size related to development in the Coyote Valley, the type of review and analysis the Company is recommending the EIR address has not been previously done, or has certainly not been done for a project of this size, scope and impact.

The plan includes a lake or pond of recycled water and other use of recycled water in the Coyote Valley and the extension of City water service into private water company territory and outside of existing City limits.

1. Study the impacts and costs of public and private utility relocations caused by locating the proposed pond at Bailey and Santa Teresa.
2. Consider and study the impacts and possible mitigation of moving the pond near the Metcalf Energy Center or some other location.
3. Study the proposed uses of recycled water in the Valley. Examine what quality of recycled water will be recommended for each use. Examine how and where the recycled water will be treated above Title 22 recycled water. Examine how the water will be transported and the potential impacts within the Valley. Examine and determine the potential impacts of recycled water on Fisher Creek and Coyote Creek. Include a full assessment of the use of natural resources consumed in the building of the infrastructure for recycled water distribution and operation of the pumps and pipes.
4. Perform a complete and comprehensive study of ground water hydrology in Coyote Valley to determine potential impacts of recycled water on critical drinking water

aquifers. As part of the study, collate the ground water records for the Valley, demonstrating the depth of the ground water from the time records were kept to date from the north end of the Valley down through the Greenbelt. Show the depth at various times during the year. As part of the study, determine the variation in permeability of the ground throughout the proposed development area and how quickly will something placed on the ground, be it recycled water, motor oil, gasoline, construction waste, lawn and garden fertilizer and poisons, etc. get into the ground water and be drawn down into the wells used to provide drinking water, or enter the ground water flow to Coyote Creek and the Santa Clara sub-basin. As part of the study determine the demand for water for the Coyote Valley using realistic comparisons with similar water systems. Determine the sustainable extraction and recharge rates for ground water, including all ground water recharge methods. As part of that study examine the extent of potential damage that may be caused by recycled water to this critical ground water resource. Testing should be done to determine and benchmark existing background levels of contamination as part of the study.

5. Given the high ground water from the mid to north end of the Valley, study the impacts on construction, including underground parking and high rise building footings and below ground building levels. Conversely, study the potential impacts on the ground water from construction materials and the near term construction and long term existence of these structures in this critical ground water basin. Consider as part of the analysis the no project option.

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additional costs to property owners and developers of the City system, since private companies self fund or repay land owners or developers for construction fees advanced.

Respectfully submitted,

Great Oaks Water Co.
John Roeder Chairman & CEO

By Alan Gardner, COO

cc Sal Yakubu, Dept. of Planning
salifu.yakubu@sanjoseca.gov
Darryl Boyd, Dept. of Planning
darryl.boyd@sanjoseca.gov